

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

STATE OF OKLAHOMA, ex rel.)	
W. A. DREW EDMONDSON, in his capacity as)	
ATTORNEY GENERAL OF THE STATE OF)	
OKLAHOMA and OKLAHOMA SECRETARY)	
OF THE ENVIRONMENT C. MILES TOLBERT,)	
in his capacity as the TRUSTEE FOR NATURAL)	
RESOURCES FOR THE STATE OF OKLAHOMA,)	
)	
Plaintiff,)	
)	
vs.)	05-CV-0329 GKF-SAJ
)	
TYSON FOODS, INC., TYSON POULTRY, INC.,)	
TYSON CHICKEN, INC., COBB-VANTRESS, INC.,)	
AVIAGEN, INC., CAL-MAINE FOODS, INC.,)	
CAL-MAINE FARMS, INC., CARGILL, INC.,)	
CARGILL TURKEY PRODUCTION, LLC,)	
GEORGE'S, INC., GEORGE'S FARMS, INC.,)	
PETERSON FARMS, INC., SIMMONS FOODS, INC.,)	
and WILLOW BROOK FOODS, INC.,)	
)	
Defendants.)	

**DEFENDANT PETERSON FARMS, INC.'S MOTION FOR CLARIFICATION
AND RECONSIDERATION REGARDING RULING ON DOCKET #75**

Defendant Peterson Farms, Inc. ("Peterson"), hereby submits its Motion for Clarification and Reconsideration Regarding Ruling on Docket #75. In support of its Motion, Peterson states the following:

1. On June 14 and 15, 2007, the Court heard argument on various motions filed by Defendants under Federal Rule of Civil Procedure 12(b) and (c), and the Court contemporaneously ruled on the same.

2. Among the motions argued and ruled upon were Tyson Foods, Inc.'s Motion to Dismiss Counts 4-10 of the First Amended Complaint (Dkt. #66) and Peterson Farms, Inc.'s Motion to Dismiss (Dkt. #75).

3. During the aforementioned proceedings, the Court granted Tyson Foods, Inc.'s motion to dismiss portions of Plaintiffs' Count 7 based on their avowed attempt to apply Oklahoma statutory law, namely OKLA. STAT. tit. 27A, § 2-6-105, to activities occurring outside the territorial boundaries of the State of Oklahoma.

4. Tyson argued, and the Court agreed, that this extraterritorial application of Oklahoma's positive violated the sovereignty of the State of Arkansas and well-established constitutional jurisprudence based on the Commerce Clause and/or the Dormant Commerce Clause. (*See* Dkt. #66 at 15-21).

5. Accordingly, the Court's Minute (Dkt. #1187) of June 15, 2007 reflects that Tyson Food's Motion to Dismiss Counts 4-10 of the First Amended Complaint was granted in part and denied in part.

6. Of particular note, Peterson's Motion to Dismiss (Dkt. #75) separately challenged Count 7 and Plaintiffs' extraterritorial application of Oklahoma law, including its positive law, outside the borders of the State of Oklahoma based on the basis of sovereignty and Commerce Clause principles. (*See* Dkt. #75 at 9-13).

7. Despite setting forth substantively identical arguments on Plaintiffs' Count 7, the Court's Minute (Dkt. # 1187) nonetheless reflects that Peterson's Motion to Dismiss (Dkt. #75) was denied in its entirety.

8. While counsel for Tyson Foods, Inc. presented argument on this issue at the hearings on June 14 and 15, Peterson submits that its Motion to Dismiss Plaintiffs'

Count 7, to the extent it is based on the extraterritorial application of OKLA. STAT. tit. 27A, § 2-6-105, should likewise be granted and that the record should accurately reflect as such.

WHEREFORE, premises considered, Defendant Peterson Farms, Inc. respectfully requests the Court to clarify and reconsider its Minute (Dkt. #1187) of June 15, 2007 to show that Peterson Farms, Inc.'s Motion to Dismiss (Dkt. #75) was granted in part and denied in part.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on the 25th day of June, 2007, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

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I also hereby certify that I served the attached documents by United States Postal Service, proper postage paid, on the following who are not registered participants of the ECF System:

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